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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------|
| 10/632,561   | 07/31/2003  | Jaime E. Garcia      | JK01243                     | 2593             |
| 28268  | 7590        | 05/04/2007           |                             |                  |
| THE BLACK & DECKER CORPORATION<br>701 EAST JOPPA ROAD, TW199<br>TOWSON, MD 21286 |             |                      | EXAMINER<br>DEXTER, CLARK F |                  |
|  |             |                      | ART UNIT                    | PAPER NUMBER     |
|  |             |                      | 3724                        |                  |
|  |             |                      | MAIL DATE                   | DELIVERY MODE    |
|  |             |                      | 05/04/2007                  | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/632,561

Applicant(s)

GARCIA ET AL.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-25 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-25 is/are allowed.
- 6) ☒ Claim(s) 35 and 36 is/are rejected.
- 7) ☒ Claim(s) 37-41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/19/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The Pre-Appeal Brief Request for Review filed on December 19, 2006 has been entered. A pre-appeal brief conference was held on April 10, 2007 and it was determined that to place the application in better condition for appeal, a subsequent Office action should be provided that includes a reference or references as evidence of obviousness with regard to the prior art rejection of claims 35 and 36. Therefore, the finality of the previous Office action has been withdrawn.

#### ***Information Disclosure Statement***

2. The information disclosure statement filed on December 19, 2006 has been received and the references listed thereon have been considered.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is

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advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsiung, pn 6,481,322.

Hsiung discloses a saw with almost every structural limitation of the claimed invention including:

a support surface with an aperture (e.g., 14) extending therethrough for supporting a workpiece;

a beveling cutting device (e.g., 11, 12) adjustably extending through the support surface aperture, said cutting device for cutting a workpiece, the cutting device being disposed in a plane, the cutting device having a rotational axis and a beveling axis substantially perpendicular to the rotational axis, whereby operation of the cutting device in the workpiece results in the formation of a kerf having a first and a second side in the workpiece;

a first optical emitting device (e.g., 3) adjustably coupled to the table saw and disposed above the support surface to project a first optical indicator substantially aligned with the plane;

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wherein the first optical emitting device is configured so as to bevel with the cutting device, such that said first optical indicator is projected to substantially indicate a cutting path of the cutting device along the workpiece;

[claim 36] wherein the first optical emitting device adjustably coupled to the table saw (e.g., see Fig. 1) to project a first optical indicator substantially aligned with the first side of the kerf.

Hsiung lacks the cutting device having the rotational axis disposed below the support surface. However, such rotational support configurations are old and well known in the art and provide various well known benefits including a larger arc of rotation to provide the desired angle of attack and the desired cutting path through a workpiece. Examples of such a rotational support configuration are present in a variety of configurations; for example, Blanckensee, Kleeb et al., Lewis, Else, and McEwan et al. each discloses such a configuration to provide various benefits including a configuration to accommodate an automatic actuation device for moving the saw through the cutting motion. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a rotational support configuration on the saw of Hsiung to gain the well known benefits including those described above.

Further, it would have been an obvious matter of design choice to modify Hsiung by providing the rotational axis at, above or below the support surface since applicant has not disclosed that having the rotational axis at a specific location (i.e., below the support surface) solves any stated problem or is for any particular purpose, and it

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appears that the saw would perform equally well with the rotational axis disposed at any vertical location relative to the support surface.

### ***Allowable Subject Matter***

5. Claims 21-25 are allowable over the prior art of record.
6. Claims 37-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

7. Applicant's arguments filed January 22, 2007 have been fully considered but they are not persuasive.

Regarding applicant's arguments beginning at the third paragraph on page 3 of the subject response, the Examiner respectfully disagrees with applicant's position and refers applicant to the patents cited in the prior art rejection above as evidence of obviousness and as evidence that the modification would not render the prior art invention unsatisfactory for its intended purpose, and would not change the principle of operation of the prior art rejection.

### ***Conclusion***

8. Applicant's amendment filed on September 18, 2006 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS**

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**MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cf  
April 30, 2007